

TO: NAB Radio Members

FROM: Eddie Fritts, Jeff Baumann and John David

DATE: March 17, 1999

RE: Low Power FM Kit

---

We have prepared the attached Action Plan and Resource Kit to help you file comments on the Commission's proposal to establish a Low Power FM ("LPFM") radio service. We have also included other materials to help you when you talk to your Members of Congress about LPFM and when dealing with the press.

The LPFM issue is a crucial issue to the radio industry and your comments and help are needed. Please take the time to review the kit and complete the three actions that we have requested. NAB will keep you updated on any new developments as they occur.

**NOTE: Since it isn't feasible to transmit large scans of the actual document, this PDF file was painstakingly reproduced from the actual NAB document which was scanned into a computer. No content or meaning has been altered from the original.**

# **ACTION PLAN FOR LOW POWER RADIO**

The Commission has issued a *Notice of Proposed Rule Making* (“NPRM”) that threatens to establish hundreds, if not thousands, of new low power FM (“LPFM”) stations. The FCC currently is accepting comments on its proposal, and all broadcasters must file comments to let the Commission know exactly how low power radio will affect their station. Additionally, there are other actions all broadcasters must take. This Action Plan and Resource Kit is designed to help. There are three things that NAB is asking all broadcasters to do in the next few weeks:

## **1. FILE COMMENTS WITH THE COMMISSION**

- A memo on how to file comments with the FCC is included
- Other materials are included to assist stations

## **2. CONTACT YOUR MEMBERS OF CONGRESS**

- A memo outlining some specific points for Members is included

## **3. SUBMIT AN EDITORIAL TO YOUR LOCAL NEWSPAPER**

- A sample editorial is included

## **COMPLETE LIST OF TOOLS**

- Counsel Memo on how to file comments with the FCC
- One-page argument sheet for comments
- One-page talking point sheet for Members of Congress
- Summary of the NPRM
- Sample Editorial
- Copies of various articles on LPFM
- Full text of the NPRM is available for downloading at <<http://www.fcc.gov/mmb/prd/lpfm/>>

This is the single biggest issue to hit the radio industry in the last few decades. It is vital that ALL broadcasters file comments with the FCC AND speak to their Members - and they must do it soon. The FCC and Congress are already hearing from the LPFM supporters. The whole story must be told and broadcasters are the only ones that can do it!

## **THE LOW DOWN ON LOW POWER RADIO**

NAB is adamantly opposed to the establishment of any low power radio service. There are numerous technical and policy issues that have been raised - many of which the FCC failed to consider before releasing the NPRM. On the technical side, the FCC proposes to eliminate 2nd and 3d adjacent channel restrictions in order to “make room” for LPFM stations. However, the FCC has failed to conduct any studies that look at the interference impact of the proposed LPFM service or the effect of establishing a new LPFM service on the development of In-Band, On-Channel (“IBOC”) digital radio.

NAB has established the Spectrum Integrity Task Force. The Task Force is made up of radio industry leaders. The primary focus of the Task Force is the LPFM NPRM. It has authorized the commission of a comprehensive receiver study to determine what the interference environment would be if the Commission establishes an LPFM service. Further studies can then be completed to measure the actual impact in specific markets.

Additionally, NAB established an Ad Hoc LPFM Technical Advisory Committee consisting of concerned broadcast engineers and engineering consultants. The Ad Hoc committee will assist in developing a technical strategy regarding the NPRM.

NAB also has expressed our concerns regarding the proposal to the IBOC digital radio proponents. The IBOC proponents are the only entities that can test and study the proposal and measure its effect on the development of IBOC.

NAB, along with all of the State Broadcasting Associations and CEMA, filed a Motion for Extension of Time with the FCC. We asked for 90 additional days for file comments and a 150-day extension for reply comments. We will keep stations updated on this request. Currently, the deadline for comments is April 12, 1999, with the reply comment deadline on May 12, 1999.

## TALKING POINTS FOR MEMBERS OF CONGRESS

Broadcasters must contact their Congressmen and Senators to educate them on the potential impact of the LPFM proposal on existing broadcasters. The following is a list of talking points that can be made to each Member.

- **Impact on existing broadcasters and the future of radio.** The FCC currently allocates stations using specific criteria for interference protection. The LPFM proposal would eliminate these protections to provide room for LPFM. However, the FCC completely failed to take into consideration the impact on existing stations — and their listeners. The Commission also disregarded the potential impact on the development of IBOC — the future of radio. The FCC did not do any studies to measure this impact before issuing the proposal. How can an agency that is the “guardian of the spectrum” disregard the important technical issues in deciding to issue such a proposal? Congress must demand that the FCC prove that they have considered the technical impact on existing radio stations and the transition to digital.
- **Ownership.** The FCC is proposing to allow pirate broadcasters to apply for LPFM licenses as long as they have voluntarily ceased operating an unlicensed station. However, the Commission refuses to allow applications for an LPFM station from any person who has an attributable interest in a broadcast station. The LPFM proposal is a reward to pirate broadcasters who have been violating the law. Regardless of whether an LPFM service is established, the pirate problem will still be around — and likely get worse.
- **Missing the goal.** The FCC proposal won’t accomplish its goal of providing stations to the thousands of people who want one. Even if the Commission removes all of the interference protection restrictions to allow more room for LPFM stations, there will be very few available in the urban markets. Further, there’s no need to establish such a service for rural areas because under existing rules, there are still many channels available. One of the reasons there are still channels available in rural areas is because stations are not as economically viable — this would be the same for LPFM stations.
- **Regulation and enforcement.** The LPFM proposal would allow some LPFM stations to operate under less regulation than full-power stations. This threatens to turn the FM band into a CB radio situation. The Commission does not have the resources to deal with the introduction of hundreds of new stations in which the majority of new licensees will have near zero experience in operating a station and/or won’t be concerned with operating under any regulations.

The following is a sample editorial against LPFM that can be adapted and modified for your specific concerns. Expansion points also are included for your use, either in your editorial or if you are interviewed by reporters.

---

It's been said that bad ideas sprout in Washington more often than cherry blossoms in spring along the Potomac. The latest comes from the Federal Communications Commission, which is considering the creation of hundreds—if not thousands—of low power radio stations to add to an already congested broadcast band.

Proponents of so-called “microradio” say they need to create “voices for the voiceless.” Advocates protest an alleged “blandness” on today’s radio dial, suggesting that radio consolidation is “squeezing out” potential radio entrepreneurs.

As a broadcaster who has spent my entire professional career (or much of my professional career) in radio, allow me to steal a line from radio great Paul Harvey and give you “the rest of the story.”

Bottom line: The FCC plan could lead to massive interference on an already-crowded radio band. Radio listeners understand that interference is a major problem. Shoehorning hundreds — if not thousands of stations onto a finite amount of airwaves can only lead to increased interference and less service to the listening public.

Moreover, the FCC proposal threatens radio’s transition to a crisper, clearer sound: digital radio. Some of the best engineering minds in our business are working to bring digital radio to market in the next few years. Before even considering low power radio, the FCC must make sure that radio can make a smooth interference-free transition to digital.

There are nearly 13,000 radio stations in American today, 3,500 of which have been launched since 1980. These stations offer an incredible array of program formats, from children’s to classical, from hip-hop to gospel, from country to Korean. Just last month, all Spanish language stations topped the 500 mark in the U.S., providing music, news and information to an ever-growing audience. All-talk formats have become a staple in most markets.

Many markets even have sub-categories for formats. Rock enthusiasts, for example, can flip the dial in most cities and find oldies, alternative, Top 40, or classic hits. *Put simply, there has never been more program diversity than in today fiercely competitive radio market.*

America's love affair with their hometown radio stations remains strong. In the smallest markets, listeners can rely on radio for local high school basketball games and scores, school lunch menus and hospital admissions. In farming communities, they're still tuning in for pork belly and soybean prices. Even with the explosive growth of the Internet and the dizzying array of entertainment choices, the typical American spends more than three hours a day listening to radio and those numbers have held steady for years.

Why? Because radio keeps listeners in touch and in tune with their community—and the world at large—like no other communications medium. Whether its up-to-the-minute information on local school closings and weather alerts, mixing in with a smattering of national news and syndicated program offerings such as Don Imus or Dr. Laura, radio delivers the goods. And let's not forget, all at no charge to the listening public.

Even with the consolidation of the last few years, there are still more than 4,000 owners of radio stations in the U.S. And in the smallest markets, listeners continue to be well-served with the type of local news and information that only home-town radio can provide.

The FCC's low power radio plan may sound good in theory, but in reality, the government appears to be searching for a solution to a problem which does not exist. Low power radio would add chaos to a congested radio band, the result of which would be a reduction in service to listeners.

---

## **EXPANSION POINTS**

### **Spectrum Integrity**

Anyone who spends time surfing the radio dial understands that interference is a serious problem.

If the FCC shoehorns hundreds—if not thousands—of radio stations into an already congested radio band, the only result will be more interference and less service to the listening public.

Everyone would love to own their own radio station and be a broadcaster. But the laws of physics won't allow it. That's why the FCC was initially established — to police a finite amount of spectrum and ensure that interference to the listening public was minimalized.

## **Threat to Digital Radio Transition**

Just as television broadcasters are transitioning from an analog to digital transmission format, so too are radio stations. This so-called in-band, on-channel (IBOC) digital service will vastly improve the clarity of today's radio signals and ensure that free, over-the-air radio remains competitive into the new millennium.

The best engineering minds in the business are working to bring IBOC digital radio to market. Before even considering "microradio," the FCC should make sure that radio—the most local of all communications services—can make a smooth interference-free transition to digital.

## **The Myths of Low Power Radio**

Our critics claim radio is too bland and too consolidated, and that there needs to be additional "voices for the voiceless." Surely; given the explosive growth in the Internet, no one can seriously believe there are stifled voices in today's world of instant, 24-hour-a-day communications.

But let's look at the facts related to today's radio market.

### **Too Bland?**

The fact is that radio program diversity has never been greater. There are now nearly 13,000 radio stations in the U.S. — 3,500 which have been added since 1980—offering a plethora of programming options for listeners.

In most major markets, there are formats devoted solely to news, talk, business, sports, children, religion, gospel, oldies, classic rock, jazz, country, easy listening, classical, and ethnic programming. There are now more than 500 Spanish language stations in the U.S — the highest number ever.

### **Too Consolidated?**

Despite the consolidation of the past few years, there are still more than 4,000 owners of radio stations in the U.S. Many of the stations owned by the "consolidators" are among the top rated stations in their respective markets — suggesting that the programming is compelling enough to continue luring tens of thousands of listeners.

Sixty percent of radio stations were losing money in 1972. Congress—when it passed the 1996 Telecommunications Act—recognized that radio deregulation was warranted to keep radio competitive with other communications mediums that charge consumers for their service.

Bigness does not mean bad! Just as many consumers enjoy the option of shopping at K Mart and/or the hometown retail outlet, so too do radio listeners who can listen to an hour a day of Imus or Dr. Laura, along with their hometown deejays. The choices for radio listeners are endless.

Ponder the words of Bob Doll, editor emeritus of Small Market Radio Newsletter: *“We have not heard of any small stations going broke because of the presence of a consolidator operating in their area. On the contrary, several have told us that being the ‘local station’ has actually helped their business.... For most people — station owner-operators and the audience and customers that are served by small market radio — the Telecomm bill has been a good thing.”*

## **LOCALISM AND COMMUNITY SERVICE**

Despite consolidation, radio remains rooted in localism. Listeners rely on radio for emergency weather reports, school closing information, results of high school and local college basketball games. Broadcasting’s commitment to serving the public is unparalleled — as evidenced by NAB’s documentation of \$6.8 billion donated by radio and TV stations in one year alone for public service announcements, local charities and free airtime for politicians.

Localism is the franchise of radio, and remains so even in an era of the Internet, satellite radio, and syndicated programming. Those stations that are invested in and maintain strong ties to the local community will remain prosperous.



## **How to File Comments in the Low Power Radio Proceeding**

When a Notice of Inquiry (“NOI”) or Notice of Proposed Rule Making (“NPRM”) has been issued by the Federal Communications Commission, or when the FCC puts a petition on public notice and assigns it an “RM” number, the public is given the opportunity to submit initial comments and then respond to the comments of others. These comments are often crucial to the Commission’s final decision.

### **How to File Comments**

There are two ways to file comments with the Commission — parties may file by paper or file electronically through the FCC’s Electronic Comment Filing System (ECFS).

#### **Comments Filed On the Electronic Comment Filing System (“ECFS”)**

Comments can be filed as an electronic file via the Internet through the ECFS. The rules that apply to paper comments regarding formatting, margin and length apply to comments that are sent as an attached file through the ECFS (See below).

- The ECFS can be accessed at: <<http://www.fcc.gov/e-file/ecfs.html>>
- Instructions on how to file through ECFS can be found at: <<http://www.fcc.gov/e-file/helpsend.html>>
- Generally, only one copy of an electronic submission must be filed. However, if multiple docket or rulemaking numbers appear in the caption of the proceeding, parties must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. Commenters are required to provide their full name, mailing address, and the applicable docket or rulemaking number on the transmittal screen.

Parties may also submit comments by e-mail. To get filing instructions for e-mail comments, parties should send an e-mail to: <[ecfs@fcc.gov](mailto:ecfs@fcc.gov)> and include the following message: “get form <your e-mail address>” (e.g. get form [jsmith@domain.com](mailto:jsmith@domain.com)). A sample form and directions will be sent in reply to the e-mail.

## **Filing Paper Comments:**

### **Format:**

- The Docket Number or “RM” number must be specified in the heading of your comment. The Docket Number for the Low Power Radio proceeding is MM Docket No. 99-25.
- All paper comments must be on 8 1/2 x 11-inch size paper. (Your comments may be submitted on any type of paper, including your station’s letterhead, so long as you comply with the size requirement.)
- All comments must be double-spaced and typewritten or computer-printed.
- All comments must be formatted in 12-point type print.

### **Margins:**

The margins must be at least 1” wide. If both sides of the paper are used (which is allowed), the right hand margin of even-numbered pages must be at least 1 1/2 inches wide, and the comment must be bound in the left-hand margin so as to open like a book.

### **Comments Over Ten Pages in Length:**

All comments exceeding ten pages must include a table of contents, with page references, and a summary of the comments, which should be a succinct synopsis of the substance of the filing.

### **Number of Copies:**

To make the comments “formal,” you must submit an original and four copies to the Commission. If you want each Commissioner to have a personal copy of the comments, you may file five additional copies, for a grand total of an original and nine copies. If more than one docket or rulemaking number appear in the caption of the proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

### **Diskette submission:**

For this proceeding, the Commission states the parties who choose to file by paper should also submit their comments on diskette. The *Notice of Proposed Rule Making* requests that a diskette is submitted to: Paul Gordon, 445 12th Street, S.W., Room 2C223, Washington, D.C. 20554. Additionally, the Commission states that parties “must” submit a diskette to: International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

- The submission should be on a 3.5-inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software.
- The diskette should be submitted in “read only” mode and accompanied by a cover letter.
- It should be labeled with the Commenter’s name, proceeding (including the lead docket number [i.e. “MM Docket No. 99-25”]), type of pleading [comment or reply comment], date of submission, and the name of the electronic file on the disk.
- The label should also include the following phrase: “Disk Copy - Not an Original.”
- Each disk should contain only one party’s pleading, preferably in a single electronic file.

Please note that the Commission has never held a rulemaking proceeding with regard to whether commenters who file by paper must also submit a diskette. Parties can submit a diskette. However, the Commission must still consider paper filings without a diskette submission because they have never officially changed the rules to require a diskette copy with all paper submissions. The submission of diskettes will assist the Commission in placing comments on the Electronic Comment Filing System without requiring it to scan in all paper filings.

### **Informal Paper Comments**

If you wish to express interest in a proposal “informally,” you may submit one copy of your comments, without regard to the above-described format requirements; but still make sure that the docket number or “RM” number is specified in the heading.

### **Where to File**

Submit your paper comments to:

Office of the Secretary  
Federal Communications Commission  
445 Twelfth Street, S.W.  
Washington, D.C. 20554.

### **Substance of Your Comments**

**Facts:** The Commission is interested in who you are and what your interest is. Provide a clear, brief explanation of your opinion and related facts.

**Your Experience:** The Commission is interested in any experiences or insights you might have that would be relevant to any issues or questions raised in an inquiry or rule making.

**Be Specific:** Ambiguous statements will only confuse the Commission. Remember, the Commission’s staff has many comments to read, so the clearer your viewpoint, the more likely the staff will focus on your position.

In most cases you, the broadcaster, can participate independently in FCC inquiry or rulemaking proceedings. However, if you need additional guidance, or would like an initial review of your comments before they go to the Commission, consult your local communications counsel or for NAB members, the NAB Legal and Regulatory Affairs Department (phone: 202-429-5430; fax: 202-775-3526).

**SAMPLE COVER PAGE**

The following is a sample caption for formal comments that can be used when writing your comments. Please delete the bracketed sentences and insert your own information.

\_\_\_\_\_

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
	)	
Creation of a Low	)	MM Docket No. 99-25
Power Radio Service	)	
	)	RM-9208
	)	RM-9242
	)	

Comments of  
[INSERT YOUR STATION AND/OR ORGANIZATION NAME HERE]

\_\_\_\_\_

## Low Power FM: A Bad Deal for Full-Power Broadcasters

- **Low power FM will cause interference to existing stations.** In order to establish a low power service, the FCC would have to drastically alter its existing interference protection standards. The interference protection standards are in place to maintain the integrity of the spectrum. Elimination and/or alteration to the standards will result in increased interference to existing broadcaster's signals — and a loss of service to listeners.
- **Low Power FM will harm the development of In-Band, On-Channel ("IBOC") digital radio.** The proponents of IBOC digital radio have been developing their systems based on the current interference protection standards. The systems utilize the "sidebands" of the analog signal to transmit the digital signal without the need for additional spectrum. Any alteration to the second-adjacent channel spacing restrictions could harm radio broadcasters in their transition to digital.
- **Low Power FM proposal will not achieve what the Commission wants.** Even if the Commission eliminates second and third adjacent channel protections, very few stations would be available in the urban markets. Serving urban communities and neighborhoods is a stated goal of the Commission in establishing this service. Clearly, it is folly to spend the resources to establish an entirely new service that ultimately is unable to serve the listeners for which it was intended. The Commission claims that it received over 13,000 requests for a low power station last year. Unfortunately, under this proposal—or any proposal—there will never be enough spectrum for even those persons to have their own station.
- **Low Power FM will not create viable stations to increase minority and female ownership.** Even if it is determined that a station is available in a particular area there is no guarantee that minority and female owners will want and or actually receive a license —whether they are allocated on a first-come, first-serve basis or through an auction process. Furthermore, the economic viability of low power stations is questionable.
- **"Those who don't know history are doomed to repeat it."** In the 1980's, the Commission began a proceeding that ultimately ended in the revision of its rules that allowed thousands of new stations on the air. The result of the infamous "Docket 80-90" was that there were too many stations in the marketplace. The Commission subsequently loosened radio ownership restrictions in order to bolster the industry. A culmination of this was the lifting of the national radio ownership restrictions and further loosening of the local restrictions in the Telecomm Act of 1996. Docket 80-90 was the direct cause of consolidation. The Commission should not travel down this path again.
- **Low Power FM will be an administrative nightmare for the FCC.** The Commission has limited resources. The Notice proposes to provide assistance to LPFM applicants—assistance unlike any ever provided to full-power applicants. Additionally, there is the increased regulatory and enforcement burden—not only for the newly licensed LPFM stations, but also for all of the unlicensed 'pirate' radio stations that refuse or are unable to obtain licenses and continue to broadcast. The Commission is proposing to place amateur stations in the middle of a mature service.
- **Low Power FM proposals for 1 - 10 watt stations are an inefficient use of the spectrum.** The Commission altered its rules in 1978 to prohibit further licensing of 10-watt "Class D" noncommercial educational stations because it determined the spectrum could be used more efficiently by larger stations that can reach more people. This premise remains true today.

The following is a detailed summary of the *Notice of Proposed Rule Making* (“NPRM”) for Low Power Radio Service (“LPFM”). The summary has paragraph references to the full text of the NPRM. Comments are due April 12, 1999. Reply Comments are due May 12, 1999.

The Commission has asked for comments on virtually every aspect of this proposed new service—from spectrum considerations and interference concerns to channel allocations and applicable service rules. You do not have to comment on every issue raised—please choose the issues that are most important to you. It is very important that you let the Commission know how this proposal impacts your station(s).

## **SERVICE PROPOSALS AND ISSUE ANALYSIS**

### **A. Need for Low Power Radio Service (§ 10 -14)**

The Commission is concerned that consolidation hurts small broadcasters and potential new entrants. It can drive up prices, making it more difficult to enter the broadcast industry and survive as an independent operator.

The Commission received over 13,000 inquiries showing an interest in LPFM. The new classifications could be outlets for new voices and program services to serve the public. The Commission seeks comment as to whether a LPFM service could provide new entrants the ability to add their voices to the existing mix of political, social and entertainment programming. Proponents believe that other avenues are not adequate to accomplish these goals.

The Commission notes that technical parameters could affect not only the availability of frequencies, but also the nature of the licensees and listeners attracted to different types of stations and the resulting service.

### **B. Spectrum Considerations (§ 15 - 21)**

The NPRM proposes that a LPFM will be on the spectrum that is currently allocated for FM use. The FCC believes that allocating other spectrum would force consumers to buy new equipment and would have a substantial dampening effect on the success of a LPFM service. The AM band will not be used for low power radio due to fears of overcrowding, interference, and degradation. The Commission is seeking comment on this position and whether all lower power services should be noncommercial.

The Commission notes that interference protection is a critical issue that could have a potentially significant effect on whether LPFM service can be implemented. The NPRM also raises the issue of whether LPFM stations should be secondary spectrum users. The Commission states that spectrum priority will affect the number of LPFM facilities, as well as the impact on modification of stations by existing broadcasters. The Commission also states that it must decide

whether LPFM services, if authorized would provide and receive interference protection with respect not only to existing, but also to future full-service radio facilities. It must also look at the effects of such protection on both the microradio service and existing broadcasters.

### **C. Technical Overview of LPFM Services (§ 22 - 37)**

#### **LP1000 stations**

- Primary spectrum users because stations will be more expensive to construct
- Must follow the majority of service rules
- Maximum ERP — 1000 watts; minimum ERP — 500 watts
- HAAT — 60 meters (197 feet); no minimum
- The 1m V/m (60 dBu) signal contour of LP1000 stations operating at the maximum ERP and HAAT levels will be protected — minimum separation distances to other stations are derived from that basis.
- LP1000 station would preclude the authorization of another LP1000 station on the same channel within 65 km
- Proposed power/height combo produce a signal contour at a distance of 14.2 km (8.8 miles). This would cover a significant portion of many urban areas and most medium-size or small rural communities.

The Commission seeks comment on the following issues:

- Should this be noncommercial, commercial or both?
- Will the population in these service areas be large enough to sustain an advertising base?
- Should LP1000 have primary status against secondary FM translator and booster stations?
- Should FM translators and booster stations protect LP1000 stations?
- Should the current scheme for translator and booster protection of FM stations be extended to protect LP1000 stations?
- Should the Commission grandfather existing translators and boosters?
- Should the Commission prohibit translators and boosters for use with LP1000 stations?

#### **LP100 stations**

- Secondary service;
- Maximum ERP — 100 watts; minimum ERP — 50 watts
- HAAT — 30 m (98 feet)
- 1 mV/m signal contour of 5.6 km (3.5 miles)
- No interference within the protected service contours of existing and future primary stations — LP100 stations would not be protected from interference

The Commission seeks comment on the following issues:

- Should LP100 stations be noncommercial, commercial or both?
- Should minimum ERP be 30 watts,
- What will be likely impact on FM translators and boosters?
- Should LP100 be primary with respect to FM translators and boosters, which do not originate programming?
- Should the Commission grandfather existing FM translators/boosters if determined to be secondary service to LP100?
- To promote localism, should Commission prohibit translator/booster rebroadcasts of LP100 programming?

#### **Microradio service (1-10 watts)**

- ERP levels — 1-10 watts
- Maximum HAAT — 30 m
- Contour — 1.8 km to 3.2 km
- FCC transmitter certification requirement, if microradio service is adopted
- Secondary to all services, including LP100 stations

The Commission also seeks comment on the following issues:

- Should a microradio service be noncommercial, commercial, or both?
- What are the effects of the combined interference potential of possibly many such stations operating on the same channel in the same area?
- What are the merits of a very low power microradio class?

#### **D. Interference protection Criteria (§ 38 - 50)**

Distance separations for determining channel allotments has proven to be an effective and straightforward means for maintaining the technical integrity of the FM radio service. Appendix B in the NPRM shows the proposed distance separations for new service. The Commission has discarded the contour overlap approach as an option because it is too resource intensive. Other options for interference protection could be suggested and/or used.

The Commission proposes to authorize low power service without any second or third-adjacent channel protection standards to maximize the number of LPFM stations. It believes there is a strong case for not requiring third-adjacent restrictions.

The Commission advises that LPFM applicants should take into account spectrum congestion considerations and to evaluate the extent to which third-adjacent signals could pose a problem. Commenters are asked to assess the risk of interference from elimination of second adjacent channel restrictions. Second-adjacent channels would be a substantially larger impediment to LPFM service than the third-adjacent standard according to FCC staff.

Relaxed interference standards for LPFM may be the only way to “find” sufficient spectrum in medium and larger markets to create any new viable service of 100 watts or more.



On balance, the Commission believes that creating opportunities for new LPFM service should outweigh any small risks of interference to and from LP1000 and LP100 stations. However, it states that the low ERP levels with a tight spectral emission mask and certification of transmitters should significantly reduce the harmful interference to existing service. (See Appendix D of the NPRM for the charts on how many stations would be available depending on how the interference protection standards are established.

The Commission also stated that it must consider IBOC technology when developing interference standards. It needs to better understand the potential impact of second-adjacent channel LPFM protection standards on the successful development of the IBOC system.

## **E. LPFM Emissions and Bandwidth (§ 51 - 56)**

The Commission seeks other technical means to reduce the risk of interference. It is looking at several proposals that include establishing a strict spectral emission mask or requiring certification of transmitters. The Commission also seeks comment on whether increasing the emission attenuation requirement would reduce second-adjacent channel interference.

The Commission also addresses the possibility of reducing bandwidth to decrease the potential for interference. Commenters are asked to discuss whether this would affect how LPFM signals are received by existing radios. Comment is also sought on whether any adverse effects of LPFM operations on a reduced channel bandwidth would outweigh the increased channel availability that could result.

## **F. Ownership and Eligibility (§ 57 - 67)**

The Commission proposes that no one with an attributable interest in a full power broadcast station may have any ownership interest in any LPFM station in any market. In addition, it proposes that no joint sales agreements, time brokerage agreements, local marketing or management agreements between LPFM and full power stations be allowed.

Comment is sought on the following issues:

- What is the appropriate definition of market or community?
- Are any cross-ownership restrictions necessary?
- Should Commission limit ownership of LPFMs to 5 - 10 nationally?

The Commission believes that the provisions of the 1996 Act do not apply to LPFM because the service did not exist in 1996. Also, Congress's intent to enhance commercial efficiencies does not sufficiently apply to the new classes of service.

The Commission proposes that "local residency" of a licensee should not be required, but foreign ownership would not be allowed. The Commission proposes to apply the same standards for character qualification requirements to all LPFM broadcasters as we do to full power broadcasters. The issue remains as to whether known pirates should be allowed to have LPFM licenses. The Commission proposes to give amnesty to those who have ceased illegal operations when told to do so or who voluntarily cease operations within 10 days of the publication of the summary of this Notice in the Federal Register.

## **G. Service Characteristics (§ 68 - 90)**

For local programming requirements, the Commission seeks comment on whether to impose a minimum local origination requirement on any of the three proposed classes of LPFM service. However, the Commission is inclined to give low power licensees the same discretion as full-power licensees to determine what mix of local and non-local programming will best serve the community. In order to promote new broadcast voices, the Commission proposes that a LPFM station not be permitted to operate as a translator for full-power stations. Commenters are asked to address these positions.

Comment is also sought on the issue of whether LPFM should be noncommercial or commercial. Note that part of the FM band will remain reserved for noncommercial LPFM operators, if they meet the criteria for operating on the non-reserved band.

### **Public Interest Programming Requirements**

The Commission proposes to require that LP1000 stations must adhere to the same Part 73 public interest programming requirements that full power stations must follow. The Commission is disinclined to put the same burdens of complying with specific programming on LP100 or microradio licensees because it expects that “the very nature of LP100 and microradio stations will ensure that they serve the public.” (See § 72 of the NPRM).

### **Service rules**

The Commission proposes that, generally, LP1000 should follow all Part 73 service rules and LP100 should follow some of the service rules (e.g. main studio rule, public file rule, ownership reporting). The Commission believes that microradio does not have to follow these rules. It seeks comment on these positions. The Commission also seeks comment on the applicability of environmental and political programming rules on these stations.

### **Operating hours**

It is proposed that LP1000 must operate generally at 2/3 of their authorized hours between 6 AM and midnight. For LP100 and microradio stations, the Commission proposes that there will be no minimum operating schedule until it is shown to be necessary.

### **Construction permits**

The NPRM proposes that LP1000 stations have a 3-year construction period with the same restrictions on extensions as full power stations. The Commission proposes that LP100 stations have 18 months for construction. The Commission suggests 12 months for microradio. There will be no extensions for permits. They are subject to automatic forfeiture.

### **License terms**

The Commission suggests 8-year terms for LP1000 stations. It seeks comment on whether the renewal process should be simplified because of their different status.

Comment is also sought on the following issues:

- How often and how closely should FCC actively monitor their performance within the parameters of their statutory responsibility?
- Would a pro forma process satisfy any statutory requirement in the absence of a public complaint?
- For LP100 and microradio stations: Should there be a finite non-renewable periods of five or eight years so others can “take their turns at the microphone” and can the Commission impose such a limitation?

### **Emergency Alert System (EAS)**

It is proposed that LP1000 stations must follow the same EAS regulations as full power stations. The Commission asks for comment on the EAS responsibilities of LP100 stations. It suggests that microradio should not have to participate in EAS.

### **Station Identification**

Comment is sought on whether the Commission should adopt a call sign system that would identify a low power station as such.

### **Inspection and compliance**

It is proposed that all LPFM stations must be available for inspection by FCC at any time during business hours or during operation and that the licensee is the party responsible for compliance.

Comment is also sought on the following issue: Should LP100 and microradio stations be shut down automatically if proven to cause actual impermissible interference?

## **H. Applications (§ 91 -111)**

The Commission proposes to require mandatory electronic filing. The Commission bases this decision in part on lessons learned from LPTV application procedures. Without electronic filing there was a backlog of 37,000 LPTV applications four years after it began accepting applications. The electronic system should be able to be developed to avoid the LPTV problems and cut down on mutually exclusive applications.

The Commission proposes short filing windows instead of a first-come first-serve procedure. The Commission tentatively concludes that auctions will be required if mutually exclusive commercial applications result.

## **APPENDIX A - FM Radio Service Areas and Interference Protection Criteria**

## **APPENDIX B - Minimum Separation Criteria**

## **APPENDIX C - In-Band, On-Channel Digital Radio Service**

## **APPENDIX D - Spectrum Availability Analysis**

## **APPENDIX E - Initial Regulatory Flexibility Analysis**

\*\*\*\* Reproduced with permission of RBR. All rights reserved. \*\*\*\*

# The 12 myths of low-power FM

Low-power FM seems to have taken on a life of its own. Although it is now clear that creation of new, low-power classes of FM stations won't achieve the objectives that led FCC Chair Bill Kennard (D) to embrace the idea, the majority of commissioners are racing head-long to enact the new service.

Why? Other than scoring political points with the White House, there doesn't seem to be any reason for the LPFM frenzy.

RBR's editors have investigated each of the arguments put forth by proponents of LPFM. In each and every case, the claim is either wrong or simply a bad idea. Here, then we expose and refute the 12 myths of LPFM.

**1** *LPFM will provide opportunities for women and minorities to become radio station owners.*

Past court decisions have made it impossible for the FCC to set aside licenses for women or minorities. Also, under current law, if LPFM is made a commercial radio service, the FCC will have to auction the licenses. Even with existing broadcast owners barred from bidding (a guaranteed law-suit, by the way) the top bidders for the most desirable licenses are likely to be experi-

enced broadcasters who don't happen to be owners, with backing from well-heeled local investors. Those winning bidders could be females or minorities, but they could just as easily be white males.

Meanwhile, the licenses which could be had cheaply at auction are likely to prove a financial disaster for their "winning bidders. Enthusiastic entrepreneurs with little cash, but lots of ambition, will find that the only one making any money from their LPFM venture is a bankruptcy attorney.

**2** *Creation of a new service by the FCC should not be taken as proof of financial viability, Chair Bill Kennard recently told RBR, but rather an opportunity for entrepreneurs to make their own determination as to whether it is a viable business.*

"Let the buyer beware" may be appropriate for the cut-throat world of Wall Street, but don't citizens deserve better from their government? In fact many people (however wrongly) view an FCC spectrum license as a government endorsement. Those of us with knowledge of FCC-regulated industries know the sad recent history—how the Commission licensing of LPTV and wireless cable, along with early spectrum auctions for wireless data and PCS, served primarily to help fill bankruptcy court dockets in a time of economic prosperity.

**3** *Minorities and women have been frozen out of consolidation because Wall Street won't fund companies whose CEOs aren't white males.*

Tell that to Cathy Hughes, Alfred Liggins, Raul Alarcon, Ross Love, Amador Bustos and Alfredo Alonso. Good operators are good operators. Wall Street loves good operators — entrepreneurs who can make 2+2 equal 5 and deliver on an aggressive business plan.

**4** *Consolidation has decreased program diversity.*

This is the big lie that's been told over and over—and is regularly repeated as gospel in mayor newspaper articles extolling the virtues of pirate radio operators. In fact consolidation has greatly increased program diversity. No longer is each market overrun with FMs butting heads to dominate

AC, Country or Rock. Instead, superduopoly owners have broadened their scope to include such new offerings as Smooth Jazz, Urban AC, Hot Talk, AAA and even Christian Country. Meanwhile, the growth in Spanish formats has been phenomenal, with fast growing Hispanic groups snapping up stations to launch Tejano, Tropical, Spanish Talk and other new formats.

**5** *Commercial radio stations play only popular music.*

OK, that one's not a myth. What is society supposed to gain from having new stations which will play unpopular music? Why are we expected to give a spot on the dial to every disenchanting 22-year-old male (let's face it, there aren't very many female pirates) who wants to play the bands which he and his two closest friends think are great, but which everyone else thinks sound like sick cats running over hot coals?

**6** *LPFM won't increase interference in the FM band.*

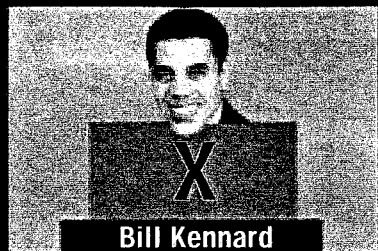
Unless the FCC has somehow been given authority to amend the laws of physics, eliminating third-adjacent channel (and perhaps second-adjacent as well) protection will, by definition, increase interference. To pretend otherwise is a bald-faced lie.

**7** *LPFM won't inhibit the implementation of DAB.*

Maybe true, maybe not. The fact is, there is no FCC standard yet for IBOC DAB, so it is impossible to say whether or not the addition of thousands of LPFMs will make it more difficult to begin the conversion of US radio stations from analog to digital. For sure, though, struggling LPFM operators will complain loudly if they find that their nearly-new analog transmitters are obsolete and have to be replaced with digital equipment just a few years after going on the air.

**8** *Commercial LPFM won't hurt established broadcasters.*

CBS, ABC, Clear Channel and other big companies probably don't have much to fear, but neighborhood stations selling "dollar-a-holler" spots could very well take away enough busi-



Bill Kennard

## RBR presents The Beltway Squares Game



Michael Powell

**Will the pirates  
take Commissioner  
Susan Ness  
to win?**



Susan Ness

**Can the radio  
industry block by  
persuading Ness  
that LPFM will  
destroy FM?**



H. Furchgott-Roth

**This game appears to  
be down to the final  
square already, with  
Ness rather than  
Whoopi Goldberg  
in the center square**



Gloria Tristani

business to drive marginally profitable standalones into red ink. Those vulnerable medium end large market stations, by the way, are likely to be locally and/or minority owned.

In small markets, though, the threat is much greater. A county with only a couple of commercial stations could be inundated with four, six, even a dozen 1-kw, 100-watt and 10-watt stations. Most would never come close to breaking even financially, even with mostly volunteer staffs, but would take away enough business from the existing stations to force them to abandon local news and programming to stay in business. Weekly rural newspapers would likely also be impacted and perhaps forced out of business.

**9** *Non-commercial LPFM stations will be more likely than existing broadcasters to target their programming to minorities and the poor, downtrodden sectors of society.*

Why, then, do most existing non-commercial stations aim their programming at a predominantly white, high-income, highly-educated audience?

**10** *Major ethnic groups in large cities have no voice on the airwaves.*

Just what major ethnic groups exist which are large enough to support an LPFM (either via advertising or donations), yet

have no current radio service? Every major city we know of has at least one block programmed station (some cities have several) which sells time to local entrepreneurs who produce very local programming in their native language for their own ethnic community. The largest ethnic groups already have full-time stations broadcasting in their language, such as the Korean and Spanish stations in RBR's home market, Washington, DC (there even used to be a full-time Arabic station).

Many ethnic groups are too scattered over a metro to be covered by a single LPFM, so they could face the prospect of trading block programming which is broadcast to their entire community a few hours each week for full-time broadcasting to only a portion of their community.

Suppose, for the sake of argument, that many of the most desirable LPFM licenses in major markets do end up in the hands of minority entrepreneurs. Their business plan won't be to take ad revenues away from CBS and ABC, but rather from existing broadcasters who are already serving their community. How many of DC's three Spanish AMs (plus a 4th simulcast) could survive competition from a couple of well placed 1-kw FM's? We're all for competitor, but what social agenda is served by having one

minority entrepreneur put another out of business?

**11** *The FCC can and will enforce its rules as strictly for LPFM as for full-power broadcasters.*

Has Bill Kennard perfected cloning? Where will he get the manpower to deal with a deluge of new stations that will make Docket 80-90 seem like a garden party, by comparison? The pressure from Capitol Hill in recent years has been to reduce the FCC staff, not expand it.

**12** *LPFM will do away with the pirate problem.*

Quite the contrary, we expect to see pirates emboldened by the proliferation of new LPFM stations. They'll figure the FCC is going to be too busy dealing with all of the new stations to even notice an unlicensed station thrown into the mix—and they'll probably be right.

Pirates are, by definition, scofflaws, so many won't even bother to apply for a real LPFM license, which would require them to operate on a specific frequency at a specific power and comply with the FCC's rules. Those who do apply, but don't win a license, may well go back to their pirate ways.

## PUBLISHER'S NOTES

\*\*\*\* Reproduced with permission of Radio Ink. All rights reserved. \*\*\*\*

# An Obituary from the Future



## OBITUARIES

### William Kennard, The Man who Killed Radio

William Kennard was a kind, vibrant, bright and capable FCC commissioner whose only goal was to help minorities. Yet today, his name is spoken as a curse among them, for it was William Kennard who lured thousands of them into a building he had unwittingly set on fire.

FCC Chairman William Kennard set the building on fire when he led the charge to allot Radio spectrums for thousands of low-power "micro-radio stations" across

America. Recalling his own college Radio experience, Kennard believed that by allotting spectrums, minorities would be free to invest in their own low-power Radio stations, thereby creating thousands of new jobs within America's minority communities.

For a while it seemed as though Kennard's dream might become reality. It was only after thousands of optimistic minority entrepreneurs had invested in these unregulated "micro-signals" that they began overlapping

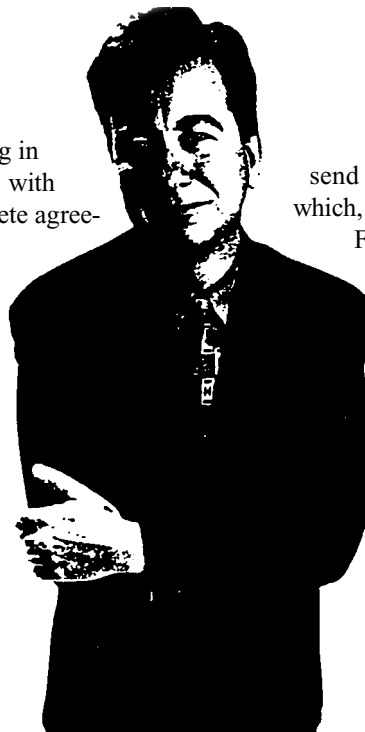
one another and interfering with the traditional established signals that had previously been the backbone of broadcasting.

Yes, there once was a day when the average Radio signal could be heard across an entire city, allowing motorists to listen to the station of their choice as they drove from place to place. Radio died at the hand of a kind man, a good man, a man who wanted only to help. But that doesn't make it any less dead.



Radio is asleep while the most dangerous ruling in its history is about to be adopted by the FCC, with all four commissioners and its chairman in complete agreement. If broadcasters don't act quickly, the commission will soon vote to allow unlimited numbers of neighborhood Radio stations across every city in America to begin broadcasting with a one- to five-mile signal. Radio, as we know it, will become unlistenable in your town.

Micro-radio will create havoc and interference on existing local Radio frequencies in every American community, disrupting the community service, news, information and entertainment programming upon which millions of consumers depend. Like Commissioner Kennard, I would like to see increased minority ownership in Radio, but the creation of unlimited numbers of micro-stations is definitely not the answer.



Your station MUST encourage listeners to send letters to Congress and the White House which, by the way, supports Kennard — and to each FCC commissioner, stating it will not tolerate the destruction of its Radio service by micro-radio.

You must speak to your congressional representative about how dangerous and damaging this well-intentioned ruling would be. Your signal, your business and your future depend on your ability to get very angry before it is too late — before Bill Kennard is known for being the man who killed Radio. ☐

*Eric*

B. Eric Rhoads, Publisher



February 2, 1999

Chairman William Kennard  
Federal Communications Commission  
The Portals  
445 12th Street, SW  
Washington, DC 20554

Dear Chairman Kennard,

The purpose of this letter is to express my concerns about something I consider to be the biggest issue facing our industry... low power radio. The term is definitely a misnomer because this commitment to low power carries the power to destroy the ability to serve our communities that we now enjoy. This has been proposed as a way to get more minorities into broadcast ownerships. As one of those minorities I would like to address that argument.

First, as a woman in this industry I have worked hard to enjoy the same opportunities provided my male counterparts. I've never felt anyone owed me anything more than a chance and I have never been disappointed. To offer these "block party" licenses as a way of leveling the playing field is not only dangerous to the entire industry, but an insult. While a few major players combine stations to create radio empires, the minority buyer is offered a license that will carry more nuisance potential than growth potential. What's more, the likelihood of creating a license caste system that alienate these new owners from the rest of the broadcast community is immense.

Creating minority opportunities is something that should be at the top of the list of every industry. Damaging any industry to accomplish a fraction of that duty is wrong. As a minority broadcaster who has proudly worked in this field for over twenty years I ask that you look for solutions that maintain the integrity of our industry and that of the people whom you seek to help.

Most Sincerely,

A handwritten signature in black ink, appearing to read "Diana L. Coon".

Diana L. Coon  
General Manager  
WMAN/WYHT/WSWR